

RESOLUTION NO. 4478

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT WITH KING COUNTY FOR THE PURPOSE OF PROVIDING ROAD SERVICES

WHEREAS, the City owns public roads and traffic devices which require maintenance and/or other improvements; and

WHEREAS, the City wishes the County Road Services Division to provide or perform certain services for the City; and

WHEREAS, the parties can achieve cost savings and benefits in the public's interest by having the County complete those services for the City at the City's expense; and

WHEREAS, this Agreement establishes the City's role and responsibilities as the recipient of such services and the County's role and responsibilities as the provider of such services; and

WHEREAS, the parties are authorized by RCW Chapter 39.34 to enter into an interlocal cooperation agreement of this nature;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. The Mayor is hereby authorized to execute an Interlocal Agreement with King County, in substantial conformity with the agreement

attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

Section 2. That the Mayor is authorized to implement such other administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2009.


CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

Exhibit "A"

INTERAGENCY AGREEMENT FOR WORK TO BE PERFORMED BY KING COUNTY ROAD SERVICES DIVISION

THIS AGREEMENT is made and entered into by and between King County ("the County") and the City of Auburn, ("the Customer").

RECITALS

- A. The Customer is desirous of contracting with the County for the performance of certain work.
- B. The County is agreeable to performing the work on the terms and conditions hereinafter set forth and in consideration of the mutual covenants and agreements herein contained.
- C. The parties can achieve cost savings and benefits in the public's interest by having the County perform the work for the Customer at the Customer's expense.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

- 1. Work
 - 1.1 Scope of Work. The County Road Services Division shall perform the work described on the attached Exhibit 1, Scope of Work.
 - 1.2 Modification of Work. If the Customer desires to modify the work requested, it shall notify the County of that desire. If the County agrees, the parties shall prepare an amended Scope of Work, which will be attached hereto as Exhibit 2. The amended Scope of Work shall bear the signature of the Road Services Division Director for the County and _____ for the Customer, authorizing the amended work.
- 2. County Personnel Standards

The County is acting hereunder as an independent contractor so that:

- a. County employees performing work hereunder shall be for all purposes employees of the County;
- b. Control of County personnel standards of performance, discipline, and all other aspects of employment shall be governed entirely by the County.

3. Compensation

- 3.1 Costs. The Customer shall pay the County for actual costs (direct labor, employee benefits, equipment rental, materials and supplies, utilities, permits, and administrative overhead costs) for the work performed by the County. Administrative overhead costs shall be charged as a percentage of direct labor costs.
- 3.2 Billing. The County will bill the Customer for the cost of work performed. The bill will reflect actual costs and administrative overhead, as described in Section 3.1 above. Payments are due within 30 days of the Customer's receipt of said invoice.

4. Permits

The Customer is responsible for obtaining any permits or other authorizations that may be necessary for the County to perform the work under this Agreement.

5. County Responsibilities

- 5.1 County Status. The County will act as a contractor only and will not purport to represent the Customer professionally.
- 5.2 County Performance. The County shall perform the work requested by the Customer as described in the Scope of Work. The County will furnish all necessary labor, supervision, machinery, equipment, materials, and supplies to perform the work requested by the Customer in the Scope of Work
- 5.3 Timing of Work. The County will make every effort to recognize pertinent Customer deadlines for completion of the requested work, and will notify the Customer of any hardship or other inability to perform the work requested, including postponement of work due to circumstances requiring the County to prioritize its resources toward emergency-related work.

6. Duration

This Agreement is effective upon signature by both parties, and shall remain in effect until completion of the work and payment of all sums due hereunder, provided that either party may terminate this Agreement by a written notice received by the other party at least five business days before the work commences.

7. Force Majeure

The County's performance under this Agreement shall be excused during any period of force majeure. Force majeure is defined as any condition that is beyond the reasonable

control of the County, including but not limited to, natural disaster, severe weather conditions, contract disputes, labor disputes, epidemic, pandemic, delays in acquiring right-of-way or other necessary property or interests in property, permitting delays, or any other delay resulting from a cause beyond the reasonable control of the County.

8. Liability

The Customer and the County agree to defend, indemnify and hold harmless each other, their respective officials, agents and employees, from and against any and all claims, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) that arise out of or are related to the negligent acts or omissions of the indemnifying party and its officials, agents, employees acting within the course and scope of their employment and in the performance of said party's obligations under this Agreement or the exercise of a party's rights and privileges under this Agreement. In the event any such liability arises from the concurrent negligence of the indemnifying party and the other party, or any of their respective actors, the indemnity obligation of this section shall apply only to the extent of the negligence of the indemnifying party and its actors.

The foregoing provisions specifically and expressly intend to constitute a waiver of each party's immunity under industrial insurance, Title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

9. Audits and Inspections

The records and documents pertaining to all matters covered by this Agreement shall be retained and be subject to inspection, review or audit by the County or the Customer during the term of this Agreement and for three (3) years thereafter.

10. Entire Agreement and Amendments

This Agreement contains the entire agreement of the parties hereto and supersedes any and all prior oral or written representations or understandings. This Agreement may only be amended by mutual, written agreement between the parties, provided that the Scope of Work may be amended as described in Section 1.2 above.

11. No Continuing Services

This Agreement is valid only for an individual work item, as specified in the Scope of Work. Ongoing services require an interlocal agreement pursuant to Chapter 39.34 RCW.

12. No Third Party Rights

Nothing contained herein is intended to, nor shall be construed to, create any rights in any third party, or to form the basis for any liability on the part of the parties to this Agreement, or their officials, officers, employees, agents or representatives, to any third party.

13. Waiver of Breach

Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

14. Headings

The headings in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

15. Invalid Provisions

If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected if such remainder would then continue to serve the purposes and objectives of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date last written below.

KING COUNTY

Customer _____

Linda Dougherty, Division Director
Road Services Division

Signature

Date

Title

Approved as to form for use in 2009
John Briggs
Senior Deputy Prosecuting Attorney

Date _____

Approved as to form
Daniel B. Heid
City Attorney

Attachment: Exhibit 1, Scope of Work

EXHIBIT 1

Scope of Work

The Customer requests citywide striping, raised pavement markings (RPMs) and thermoplastics services in 2009. The Customer will identify specific locations that will be striped twice in 2009. Locations for thermoplastics and raised pavement markings will also be provided by the Customer.

Project Schedule

- Since striping, RPMs and thermoplastics installations are weather dependent services, specific scheduling date(s) will be mutually determined between the Customer representative, Pablo Para and the County representative, George Dudley.

Project Cost Estimate

- Without an accurate inventory of striping, RPMs and thermoplastics in the City, the County is unable to provide a cost estimate.
- The Customer's budget for these services is \$150,000.
- The County will therefore do approximately \$150,000 worth of striping, RPMs and thermoplastics.
- The Customer agrees that the County can not guarantee that all striping, RPMs and thermoplastics in the City can be accomplished within the Customer's budget.
- If the County can not accomplish all the citywide striping, RPMs and thermoplastics within the Customer's budget, the Customer may increase the budget necessary to complete the requested work.